

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MATTHEW BEAHM, individually and on §
behalf of all others similarly situated, § Case No. 1:16-CV-00491
v. § JURY TRIAL DEMANDED
§
ONE WAY FUNDING, LLC §

PLAINTIFF'S RESPONSE TO ORDER

Plaintiff MATTHEW BEAHM, individually and on behalf of all other persons similarly situated (“Plaintiff”), files this response to the Court’s order to show cause. (Dkt. 7) (“Order”).

I. PROCEDURAL HISTORY

On April 19, 2016, Plaintiff filed this class action lawsuit seeking damages and injunctive relief pursuant to the TELEPHONE CONSUMER PROTECTION ACT, 42 U.S.C. § 227, *et seq.* (“TCPA”) (Dkt. 1). Plaintiff filed this case for the purpose of requesting certification of a class, and the total amount of damages suffered by the members of the class is unknown in the absence of discovery. On April 26, 2016, defendant One Way Funding, LLC (“Defendant”) was served with a summons and a copy of Plaintiff’s Original Class Action Complaint by personal service (Dkt. 4). Plaintiff filed the Executed Return of Service on June 8, 2016.

On June 9, 2016, Plaintiff filed a Request for Entry of Default Judgment. (Dkt. 5). The Clerk’s Entry of Default was entered the same day. (Dkt. 6). On October 12, 2016, the Court issued its Order to show cause as to why Plaintiff has not filed a motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b). (Dkt. 7).

II. RESPONSE TO ORDER

In August 2016, Defendant contacted Plaintiff's counsel after numerous attempts to locate Defendant. The Parties are currently attempting to negotiate a resolution of this matter. Accordingly, Plaintiff respectfully requests the Court retain this case on its docket through November 21, 2016 to allow Plaintiff's counsel additional time to finalize negotiations. Furthermore, this case was filed on behalf of a *putative class* and the total amount of damages suffered by the members of the putative class is unknown in the absence of discovery. Plaintiff's counsel have also spent time researching the issue of whether a Court may enter a default judgment on behalf of a putative class. This issue is not very prevalent and the case law addressing it is sparse. Therefore, Plaintiff respectfully requests the Court retain this case on its docket through November 21, 2016.

Dated: October 17, 2016.

Respectfully Submitted,

/s/ W. Craft Hughes

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ATTORNEYS FOR PLAINTIFF
AND THE PUTATIVE CLASS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of foregoing document, including all corresponding exhibits and attachments, if any, was sent on October 17, 2016 via e-mail to Defendant's Registered Agent.

/s/ W. Craft Hughes
W. Craft Hughes